

W. PATTON CULBERTSON, Ph.D.  
CONSULTING ECONOMIST

Professor Emeritus  
Economics  
Louisiana State University  
Baton Rouge, Louisiana

17527 West Lakeway Drive  
Baton Rouge, LA 70810  
(225) 753-4206  
(225) 751-9591 Fax  
[pmculb@bellsouth.net](mailto:pmculb@bellsouth.net)

May 29, 2009

Michael E. Bruffey  
Attorney at Law  
Brown Buchanan, P.A.  
**Attn: Charlene**  
796 Vieux Marche, Suite 1  
P. O. Box 1377  
Biloxi, Mississippi 39533-1377

*RE: Gary Brice McBAY v. Harrison County, Mississippi, et al  
Cause No. 1:07-CV-1205-LG-RHW  
USDC, Sou. Dist. Of Ms., Southern Division  
Evaluation of Economic Loss of Earning Capacity  
Date of Trial: March 8, 2010; Date of Loss: November 6, 2005*

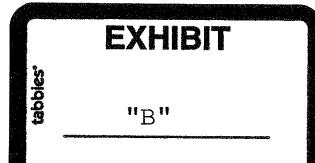
Dear Mr. Bruffey:

In accordance with my understanding of Federal Rule 26(a)(2)(B), this report contains or includes attachments of the following:

- A complete statement of all opinions and the basis and reasons therefore;
- The data and other information considered by me in forming the opinions;
- Exhibits to be used as summary of or in support of the opinions;
- My qualifications as an expert and a list of all publications authored in the last ten years;
- I understand that I am to be compensated at my usual and customary rate of \$175/hour ;  
A listing of all other cases in which I have testified as an expert, either at trial or by deposition, in the last four years.

Please consider this letter to constitute my initial and preliminary report in the matter captioned above. It is my understanding that Mr. McBAY was injured while temporarily incarcerated as a "pre-trial detainee" at the Harrison County Adult Detention Center/Facility located in Gulfport, Mississippi. Pursuant to your request, I have reviewed the following.

1. I have reviewed the information from your office sent to me via letter dated May 15, 2009. According to this information Mr. McBAY was born on August 5, 1976. He was injured on November 6, 2005. Therefore, he was 29.3 years old at that time.



\* Michael E. Bruffey

RE: Gary Brice McBay – Economic Evaluation

May 29, 2009

Page 2

2. At the time of his injury, Mr. McBay was employed as an Independent Catastrophe Property Adjuster by Pilot Catastrophe Services, Inc.
3. Table 1. below, summarizes recent earnings information for Gary Brice McBay.

<p>Table 1.</p> <p>Recent Earnings History</p> <p>Gary Brice McBay</p> <p>Sources: W-2 Statements and Social Security Administration</p>				
Year	Pre-tax Earnings	Federal Income Tax	State Income Tax	Net-of-Tax Earnings
2006	\$28,878.00			
2005	\$120,426.00			
2004	\$59,479.00			
2003	\$58,994.00			
2002	\$71,008.00			
Average Annual pre-tax income (2002 – 2005)= \$77,477.00				
Average Annual after-tax income (2002 – 2005)= \$62,451.00 (est.)				
<p>Notes: It is understood that Brice McBay began an active career with Pilot Catastrophe Services in 2004. Income tax records are not available at this time. This report will be amended and supplemented when relevant tax returns are available. It should be noted that Mr. McBay resides in the state of Texas and that there is no State income tax in Texas.</p>				

4. Table 2. below, summarizes recent earnings information for Gary R. McBay, the Father of Brice McBay. Gary R. McBay is also an insurance adjuster with Pilot Catastrophe Services.

<p>Table 2.</p> <p>Recent Earnings History</p> <p>Gary R. McBay (Father)</p> <p>Sources: W-2 Statements and Social Security Administration</p>				
Year	Pre-tax Earnings	Federal Income Tax	State Income Tax	Net-of-Tax Earnings
2007	\$77,744.00			
2006	\$43,358.00			
2005	\$167,567.00			
2004	\$87,915.00			
2003	72,368.00			
2002	\$71,101			

5. I have reviewed the May 28, 2009 report of Vocational Expert Leon Tingle, MS-LPC. Mr. Tingle reports that Brice McBay graduated from DeSoto High School in 1995. He received training as an insurance adjuster and took other related courses through Farmer's Insurance, AllState Insurance and Pilot Insurance. He is required to

Michael E. Bruffey

RE: Gary Brice McBay – Economic Evaluation

May 29, 2009

Page 3

complete 30 hours of training every two years to remain a licensed adjuster. Brice McBay began his vocational career immediately upon high school graduation as a masker for Golden Manufacturing in Garland, Texas. He later worked for Al Furniture. In 2002 he completed his adjuster training and was employed by Eberl's Claim Service. In 2004 he was employed by Pilot Insurance where he worked as an independent claims adjuster. After the incident on November 6, 2005 his Father and Sister assisted him in his work in order to continue his source of income. By January 18, 2006, Brice realized that he was unable to communicate with clients and returned to Texas where he is cared for by his Father and Mother on a "full-time" basis. His parents pay all his bills and expenses (house note with insurance; telephone and cable; utilities; car and truck note with insurance; cell phone; fuel expense; and, groceries) which total to \$2,400.00 per month. Mr. Tingle notes that Brice McBay's "average wage for the four years prior to his 2005 injury, including the year of his injury, is \$77,476.75." It is his "opinion that Mr. McBay is capable of earning wages between \$8.00 and \$10.00 per hour ... [and] the average annual wage for the jobs listed above is \$18,678.40." I calculate that this implies a net-of-tax annual amount of \$16,254.00. It is anticipated that a Life Care Plan will be prepared by associates of Mr. Tingle. This plan will be evaluated and costs will be discounted to present value in a separate report.

6. If the injury to Mr. McBay and the inability to work has caused him to lose valuable employer-paid benefits, I will amend this report so as to account for those. Table #632 of the *U.S. Statistical Abstract*, 2008 edition shows that the *minimum legally required* contribution by employers is 11.4% of earnings. I have included a calculation for this element of economic loss using this figure.
7. If the injury to Mr. McBay has caused a loss in the area of non-market, household services, I can include a calculation for this loss in an amended report. Research by Cornell University and published as Information Bulletin 322IB228, *Household Work: What's It Worth and Why?* indicates that working men typically perform about 12.75 hours per week in household chores.
8. I have prepared calculations in Table 3. below which shows my *pro forma* analysis for the loss of earning capacity of Mr. McBay. I would point out that all calculations are preliminary at this stage of the analysis and are subject to change upon further discovery or should facts unknown to me at this time become known. Since his residual earning capacity is uncertain at this time, I have simply assumed that he will be able to return to work at the Federal minimum wage rate beginning at the date of trial. Should further discovery and/or expert testimony prove this assumption to be incomplete, then I will be prepared to amend this report and the resulting calculations accordingly.

Michael E. Bruffey  
 RE: Gary Brice McBay – Economic Evaluation  
 May 29, 2009  
 Page 4

**Table 3.**  
*Pro Forma Analysis*

Potential Loss of Net-of-Tax Earning Capacity = \$62,451/year

Residual Net-of-Tax Earning Capacity = \$16,254/year (Tingle report)

Gary Brice McBay – WLE to age 59.6

1. Date of Birth	August 5, 1976
2. Date of Injury	November 6, 2005
3. Age at Injury	29.3 years
4. Life Expectancy (U.S. Stat. Abs, 2008 ed., Table #101)	48.0 years
5. Worklife Expectancy (Bulletin #2254, Table A-3)	30.3 years
6. Worklife Affected: Injury to Report/Trial/Mediation	4.3 years
7. Worklife Affected: Trial to end of Worklife Expectancy	26.0 years
8. Past Economic Loss: 4.3 years @ \$62,451/year	\$ 268,539.00
9. Future Economic Loss: 26.0 years @ \$62,451/year - discounted	\$1,262,586.00
10. Loss of Household Services (12.75hrs/wk @ \$7.25/hour)	\$ 117,848.00
11. Loss of Employer Benefits (11.4% of earnings - discounted)	\$ 174,548.00
12. Less: Residual Earning Capacity (\$16,254/year plus 11.4% of \$18,678 discounted over post-trial WLE)	<\$ 371,653.00>
<b>13. Total Economic Loss (8 + 9 + 10 + 11 - 12.)</b>	<b>\$1,451,868.00</b>
14. Earnings Increase Rate (minimum wage growth/recent trends)	2.0%
15. Discount Rate (U. S. Treasury Security yields)	4.0%

Mr. Bruffey, I hope that this analysis is of some help to you and your client. I will be happy to discuss these findings with you at your convenience.

I will schedule an appearance for trial and testimony during the week of March 8, 2010.

My fee to date is attached.

Thank you for calling on me to assist you in this matter.

Yours truly,

*Pat Culbertson*

Dr. Pat Culbertson

**W. PATTON CULBERTSON, Ph.D.**  
CONSULTING ECONOMIST

Professor Emeritus  
Economics  
Louisiana State University  
Baton Rouge, Louisiana

17527 West Lakeway Drive  
Baton Rouge, LA 70810  
(225) 753-4206  
(225) 751-9591 Fax  
[pmculb@bellsouth.net](mailto:pmculb@bellsouth.net)

June 1, 2009

Michael E. Bruffey  
Brown Buchanan, P.A.

**Attn: Charlene**  
796 Vieux Marche, Suite 1  
P. O. Box 1377  
Biloxi, Mississippi 39533-1377

*RE: Gary Brice McBay v. Harrison County, Mississippi, et al  
Cause No. 1:07-CV-1205-LG-RHW; USDC, Sou. Dist. Of Ms., Southern Division  
Evaluation of Life Care Plan  
Date of Trial: March 8, 2010; Date of Loss: November 6, 2005*

Dear Mr. Bruffey:

In accordance with my understanding of Federal Rule 26(a)(2)(B), this report contains or includes attachments of the following :

- A complete statement of all opinions and the basis and reasons therefore;
- The data and other information considered by me in forming the opinions;
- Exhibits to be used as summary of or in support of the opinions;
- My qualifications as an expert and a list of all publications authored in the last ten years;
- I understand that I am to be compensated at my usual and customary rate of \$175/hour;
- A listing of all other cases in which I have testified as an expert, either at trial or by deposition, in the last four years.

You have requested that I make calculations of the present, discounted value of the Life Care Plan prepared by Kathy Smith, MS, CRC, CRC, CLCP of Rehabilitation, Inc. It is this plan, dated June 1, 2009, which I evaluate below. All calculations use a life expectancy of 45.4 years for Mr. McBay.

**Growth in Medical Care Costs:** Table #132 of the *Statistical Abstract of the United States: 2008*, reports that over the quarter-century from 1980 – 2006 the following growth in components of the Medical Care Price Index has occurred:

1. Medical Care – Total: 5.9% average annual increase;
2. Prescription Drugs/Supplies: 6.4% average annual increase;
3. Physician Services: 5.3% average annual increase.

**Discount Rate:** The most recent Federal Reserve Statistical Release of *Selected Interest Rates* shows that the yield on 30-year-to-maturity U.S. Treasury Securities is 4.34%.

Michael E. Bruffey

Re: Gary Brice McBay – Life Care Plan

June 1, 2009

Page 2

**Discount Rate:** The most recent Federal Reserve Statistical Release of *Selected Interest Rates* shows that the yield on 30-year-to-maturity U.S. Treasury Securities is 4.34%.

1. **Medications:** Paxil – annual cost of \$1,226.40; Benzodiazepine – annual cost of \$62.05. Present, discounted value is \$93,277.35.
2. **Routine Medical Care (physician provided):** Neurocognitive recovery – annual cost of \$356.72; Medication management – annual cost of \$343.72; Neuropsychological – annual cost of \$115.44. Present, discounted value is \$45,719.98.
3. **MRI:** Once at \$2,898.00. Present, discounted value is \$2,898.00.
4. **Inpatient Rehabilitation:** Total lifetime cost is \$50,193.00. Present, discounted value is \$50,193.00.

The total present value of the current and future services and medications is \$192,088.33.

Please consider this draft as preliminary pending further development by the various providers and/or other professionals in this and related fields.

My fee to date is enclosed.

Thank you for calling on me to assist in this matter.

Yours truly,



Dr. Pat Culbertson